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ALEXANDER L. STEVAS,
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No. 80-1606

In the Supreme Court of the United States

OCTOBER TERM, 1981

UNITED STATES OF AMERICA,

Petitioner

v.

RAYMOND EUGENE JOHNSON

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

JOINT APPENDIX

PETITION FILED: MARCH 23, 1981
PETITION GRANTED: OCTOBER 5, 1981

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DISTRICT COURT DOCKET ENTRIES

DATE	PROCEEDINGS

5-6-77 Deft arrn & comm to cust of USM. Jo Ann Curtis, Pnl Atty apptd as cnsl only until indictment. Bail set at $2,500 P/R w/PSA supv & posted this date. P/I set for 5-31-77 at 8:30 a.m. kc

5/23/77 Fld indct Bond set at $2,500 P/R USA to issu note (MML Crim Cal Judge) jk
Fld CR72 fr AUSA Bonner DOB: 7/20/46 jk
Fld bond posted 5/6/77 ($2,500P/R) Fld notc of flg bond

5-6-77 Deft arr & comm to cust of U.S. Marshal. V. Sloan, DFPD appt. Bail set at 5,000 P/R bond w/PSA supv & drug program. P/I date set for 5-31-77 at 8:30 am. Bond posted. rs for kc

5-10-77 Panel atty Elliott Aheroni apptd cnsl this dt, due to poss conflict of interest in public defender's office. jn

5/23/77 Fld indct Bond set at $5,000P/R USA to issu summs (MML Crim Cal Judge) jk
Fld CR72 fr AUSA Bonner DOB:7/21/46 jk
Fld bond posted 5/6/77 Fld notc of flg bond jk

5/31/77 ARR MIN: Court appts atty Carl Stewart deft Dodd cnsl Court appts atty John Walter deft Johnson cnsl Court ord case assnd Judge Whelan & cont 1:15PM for fur procs
MIN ORD: Both defts arr & plea NG Trizl 7/19/77, 10AM Ord AUSA be assnd this case forthwith (FW) jk

6/15/77 Fld deft Dodd notc of mot & mot to suppr confessn retnbl 7/18/77, 2PM; P/A; declar jk

6/21/77 Fld USA resp to deft mot to suppr confessn of deft; affids jk

6/28/77 Fld deft Johnson note of mot & mot to suppr confessn retnbl 7/18/77, 2PM; declar; P/A jk

7/12/77 Fld USA resp to deft mot to suppr confession; P/A; affids jk

DATE	PROCEEDINGS

7/14/77 Fld applic & ORD (FW) for writ of H/C ad proseq retnbl 7/18/77, 2PM for hrg Deft in Hall of Justice, LA jk

7/15/77 Fld govt's trial Memo. mk

7/15/77 Fld govt's proposed Jury Insts. mk

7/18/77 Fld applic & ORD (FW) for writ of H/C ad testif retnbl 7/19/77, 10AM bef FW for testmy as to witn Eugene McCardell Witn in LACJ jk
MIN ORD: Defts mots to suppr hrd Cont 7/19/77, 9:30AM for J/T & fur hrg on mot to suppr. (FW) jk

7/19/77 MIN ORD: Fur hrg on both defts mots to suppr. Mots to suppr are both denyd. Court ord case severed as to ea deft Cont 7/20/77, 10AM for J/T (FW) jk

7/20/77 MIN ORD: Ord re severance of trial is vacated. Fld USA suppl trial memo 1st DAY J/T: Sw wits Mkd exbts Cont 7/21/77, 9:30AM (FW) jk

7/21/77 MIN ORD: 2nd DAY J/T: Deft Johnson mot to suppr confessn is dnyd. Cont 7/22/77 for fur trial both defts (FW) jk

7/22/77 MIN ORD: 3rd Day J/T: Sw wits Cont 7/25/77, 10:30AM (FW) jk

7/25/77 Fld deft Johnson proposed jury instructions jk
MIN ORD: 4th Day J/T: Sw wits Mkd exbts Cont 7/26/77 for fur trial (FW) jk

7/26/77 MIN ORD: 5th Day J/T: Cont 2/27/77 for fur trial (FW) ,

7/27/77 MIN ORD: 6th Day J/T: Jury retns w/verdict of GUILTY as to deft Dodd on both cts & GUILTY as to deft Johnson on ct 1 & NOT GUILTY ct 2. Ref. to P/O for I & R & cont 8/27/77, 2PM for sentcg both defts (FW) jk

8/22/77 Fld NOT OF APPEAL as to deft Johnson fr jdgmnt ent 8/22/77. No flg fee pd. jw

DATE	PROCEEDINGS

8/22/77 MIN ORD: Sent cont 8/29/77, 2PM as to deft Dodd. SENT: Deft Johnson: ISS, 5yrs prob, usual conds. Deft advised of right to appeal. Fld jdgmnt & issd cys. Bond exon. (FW)
ENT: 8/24/77. Sent to Ct. 1. Made JS-3 jw

8/29/77 MIN ORD: SENT:

DOCKET ENTRY: SENT DEFT DODD: I.S.S. on each of Cts 1 & 2 & deft is plcd on probn for a period of 5 yrs, usual conds, each of Cts 1 & 2 to begin & run conc with each other, & fur conds that deft not use narcotics of any kind; and as an expressed condition of probn he shall voluntarily submit himself to Central Bricks, located at 1925 Trinity, L.A., CA; that he permit himself to be voluntarily confined within such institution on an incarcerated basis for a period of 5 months, and thereafter for a period of an additional 7 months; and that he voluntarily commit himself to be confined on a basis whereby he must return each night to an institution; but that he will be permitted to work during the daytime; that he maintain goodstanding in such program for narcotic addition therapy during all of such period of time, to wit: 5 months, plus 7 months; and that he submit himself voluntarily for testing at such time as referred by such program; and that he authorize such program to communicate to the U.S. P/O all results of any of his experiences while under such treatment at such program including the results of any tests for urinalysis that he undergoes there at such program. IN the event that for any reason such Central Bricks program be not approved by the P/O in the future as a place for treatment of narcotic addicts then the terms and conds of prob will be altered to require his voluntary submission to some such similar program. In the event he does not so submit himself for such voluntary treatment then it will be deemed that he has violated probn. Crt fur ord that after deft leaves such institution he shall not assoc with any person or persons known by him or suspected by him to be a user of, seller of, distributor of, or possessor of any nar-

DATE	PROCEEDINGS

cotic drugs, marijuana, or any dangerous drug which has been obtained without a bonafide prescription issd by a practitioner in the course of his professional practice. Fur ord that after deft has completed such treatment under Central Bricks program, and if the P/O deems it necessary that he submit himself to such additional outpatient program as may be justified for treatment of narcotic addiction. Ord deft submit himself to Central Bricks on 8/30/77, 9AM & upon surrender to Central Bricks deft's bond will be exon. Deft advised of right to appeal. Fld Jdgmnt & Issd cpys. ENT 9-1-77 MD JS-3 as to deft DODD only. Made JS-3 (FW) le

9/8/77 Fld deft Raymond E. Johnson's NOTC OF APPEAL frm jdmt ent 8/22/77 w/certif of atty, designatn of appeal & reptr's transcrpts of procdgs, & ORD (FW) DENYING Appeal in F/P. le

9/27/77 Fld deft Dodd's NOT OF APPEAL & ORD in F/P frm jdmt ent on 8/29/77 w/atty cert, designatn of record reprtr's transcrpts & ORD DENYING appeal in F/P. (FW) le

10/5/77 Fld reprtr's extimat of cost of transcrpt on Appeal & deposit req. le

2-1-78 Fld Not to App. bf Mag VST retnbl 2-8-78, 9:30 AM briefing sched. deft Johnson. Issd. kls

2-8-78 Fld orig & 2 cpy of reptr's trancs of proc had on 5-31-77, 7-18-77, 7-19-77 (vol. 1), 7-20-77 (vol. 2), 7-21-77 (vol. 3), 7-22-77 (vol. 4), 7-25-77 (vol. 5), 7-26-77, 7-27-77, 8-22-77, 8-29-77 (vol. 6)

3-3-78 Issd & fwd to C/A ICC & 2 printed cpys of clk's rec on appeal. Along w/ 1 orig & 2 cpys of reptr's transc of prcdgs had on 5-31-77, 7-18-77, 7-19-77 (vol. 1), (vol. 2, 7-21-77 (vol. 3), 7-22-77 (vol. 4), 7-25-77 (vol. 5), 7-26-77, 7-27-77, 8-22-77, 8-29-77 (vol. 6).

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

March 1977 Grand Jury

CR 77-666

UNITED STATES OF AMERICA, PLAINTIFF

v.

OSCAR JOSEPH DODD,
RAYMOND EUGENE JOHNSON, DEFENDANTS

(18 U.S.C. § 1702; § 2; § 641; Obstruction of Correspondence; Aiding and Abetting; Receiving Stolen Government Property)

[Filed May 23, 1977]

INDICTMENT

The Grand Jury Charges:

COUNT ONE

(18 U.S.C. § 1702)

On or about March 31, 1977, in Los Angeles County, within the Central District of California, Lena Kearney and Wynona Wilkins, also known as Wynona Marie Powell, took a United States Treasury Check Number 24,156,256, Symbol 3052, dated March 24, 1977, in the amount of $4,681.00 addressed to Elihu Peterson, 1136 W. 106th St., Los Angeles, California which had been in a post office and an authorized depository for mail matter and in the custody of a letter and mail carrier, before it had been delivered to the person to whom it was directed, with design to obstruct the correspondence of such addressee.

MHB:ms

At said time and place, defendants OSCAR JOSEPH DODD, and RAYMOND EUGENE JOHNSON aided, abetted, counseled, induced and procured the commission of the offense alleged above.

COUNT TWO

(18 U.S.C. § 641)

On or about March 31, 1977, in Los Angeles County, within the Central District of California, defendants OSCAR JOSEPH DODD and RAYMOND EUGENE JOHNSON knowingly and willfully received, concealed and retained stolen property of the United States, that is, a United States Treasury Check Number 24,156,256, Symbol 3052, dated March 24, 1977, in the amount of $4,681.00, a value in excess of $100.00 with intent to convert the property to his own use, the defendant then knowing said property to have been stolen.

A TRUE BILL
/s/ George E. Broadbent, Jr.
Foreman

/s/ William D. Keller
WILLIAM D. KELLER
United States Attorney

ORAL RULING OF DISTRICT COURT ON MOTION TO SUPPRESS EVIDENCE

[472]

* * * * *

THE COURT: All right. The Court finds that the—I have already made findings and I find that the information [473] which was available to the Secret Service prior to the going of Mr. Hemenway and Mr. Pickering to the Johnson home on May 5th of this year—wasn't it?

THE WITNESS: Yes, sir.

THE COURT: —May 5th, 1977, may or may not not have been sufficient probable cause for the arrest. The Court finds that—no. I would say this, I do not consider that there was probable cause to make an arrest at that point because of the fact that while it is true that the defendant Johnson was shown at the scene of the crime, that it was the proper thing for the secret service agents to develop whether or not there was probable cause for his arrest and that was not developed until after the interview.

The Court finds again and reaffirms its finding that when the arrest was actually made that the defendant Johnson had already supplied the—through his voluntary, free and voluntary statements made with full knowledge of the nature, significance and consequences thereof, and after he had been fully advised of each and every right, constitutional right which is referred to in the decision of Miranda versus Arizona had been given to him, and that the arrest did not occur until after he had through his own voluntary admissions and confession established probable cause for his arrest, and that the arrest therefore was a legal arrest. The evidence is [474] admissible.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 77-3808

UNITED STATES OF AMERICA, APPELLEE
v.
RAYMOND EUGENE JOHNSON, APPELLANT

[Filed Mar. 5, 1979]

Appeal from the United States District Court
For the Central District of California

Before: ANDERSON and HUG, Circuit Judges, and EAST *, District Judge

ORDER

A decision on appellant's petition for rehearing and for rehearing en banc is deferred pending a decision of the United States Supreme Court in *Payton v. New York*, No. 78-5426. Written objections to this deferral may be filed by either party within ten (10) days of the date of the filing of this order.

SUPREME COURT OF THE UNITED STATES

No. 80-1608

UNITED STATES, PETITIONER

v.

RAYMOND EUGENE JOHNSON

ORDER ALLOWING CERTIORARI

Filed October 5, 1981

The petition herein for a writ of certiorari to the United States Court of Appeals for the Ninth Circuit is granted.

☆ U. S. GOVERNMENT PRINTING OFFICE: 1981 357811 670